

Bureau of Automotive Repair

INITIAL STATEMENT OF REASONS

HEARING DATE:

NORTHERN CALIFORNIA

Monday, May 21, 2012 at 3:00 PM
Department of Consumer Affairs
Hearing Room
1625 North Market Blvd
Sacramento, CA 95834

**SUBJECT MATTER OF THE
PROPOSED REGULATION:**

Brake Inspection and Repair Requirements

SECTIONS AFFECTED:

§ 3369.1 and 3369.2 of Title 16, Division 33, Chapter
1, Article 11, California Code of Regulations

SPECIFIC PURPOSE OF THE REGULATORY PROPOSAL:

The Bureau of Automotive Repair (BAR) has determined through enforcement activities, mediation of consumer complaints, and information received from members of the automotive service industry, that there is a significantly uneven playing field in the area of brake inspections and repair services. The disparity between the quality of both brake inspections and repair services impacts the industry and consumers. In some cases, Automotive Repair Dealers (ARD) will offer free brake checks as a means of attracting consumers into their shop with the intention of overselling costly parts to offset the free brake check. Typically free brake checks do not provide consumers a comprehensive inspection of brake components.

In order to address this problem, BAR developed minimum brake inspection and repair standards that ARDs must follow when performing these services. This change will provide consumers additional protection against unscrupulous business practices.

BAR is proposing to adopt the following regulation:

BRAKE SERVICE INSPECTION AND REPAIR REQUIREMENTS: This proposed action creates minimum trade standards for the inspection and repair of brake friction materials. These standards will help ensure consumers receive an accurate diagnosis of their brake condition and consistent recommendations and service of brake repair or replacement.

The proposed action will make the following changes to existing regulation:

1. Add Section 3369.1 of Article 8 of Chapter 1 of Division 33 of Title 16 of the California Code of Regulations, as follows:

- a. Add subsection (a) and (b) to regulation text.

This section requires an ARD, when performing a brake inspection, to visually inspect all brakes on the vehicle, to follow the current brake friction material and brake rotor or drum service standards, specifications, and procedures, as established by the vehicle manufacturer, and to provide a written invoice with the numeric brake inspection results to the consumer. Additionally, separate and distinct parking brake systems do not need to be inspected as part of this check.

2. Add Section 3369.2 of Article 8 of Chapter 1 of Division 33 of Title 16 of the California Code of Regulations, as follows:

- a. Add subsection (a) to regulation.

If authorized by a consumer, an ARD must replace brake pads, shoes, rotors, and drums that do not meet the manufacturer's specifications for thickness or safe operational condition with new or remanufactured parts that meet the manufacturer application and fit. Additionally, brake rotors or drums may be resurfaced not to exceed the vehicle manufacturers established "machine to" or "discard" specifications.

FACTUAL BASIS/RATIONAL:

BACKGROUND:

The Bureau of Automotive Repair (BAR) was established within the California Department of Consumer Affairs (DCA) in 1971 with the enactment of the Automotive Repair Act¹. BAR was created by Senate Bill (SB) 51 (Beilenson, Chapter 1578, Statutes of 1971), which mandated a statewide automotive repair consumer protection program. Finally, BAR is charged with protecting consumers in the automotive repair marketplace.

Through its statewide offices, BAR provides consumer protection services related to Title 16, Division 33, of the California Code of Regulations. BAR regulates Automotive Repair Dealers, Lamp and Brake stations and adjusters, and Smog Check stations and technicians. BAR receives and mediates complaints from the public, investigates violations of the Automotive Repair Act, Smog Check laws, and associated regulations. When appropriate, cases are referred to the Attorney General's Office or law enforcement authorities for administrative action, civil, and/or criminal prosecution.

In calendar year 2010, 723 or 4.4% of the complaints received by BAR were related to brake service and repairs. As a result of some of these complaints, BAR launched investigations into

¹ Business and Professions Code § 9880, et seq.

multiple companies who appear to use false and misleading advertising to lure customers into unnecessary repair services.

These investigations found that customers were often presented with cheap brake specials and then charged hundreds of dollars for unnecessary repair services. The shops also billed customers for parts and services that were not provided. Some businesses sold or attempted to sell unneeded goods and services at substantially higher costs than the advertised brake specials. BAR found that the shops did not intend to sell the advertised brake services and repairs at the advertised prices, but intended to entice customers into more costly transactions.

The BAR Enforcement Division has found that the overselling of services has become an increasing problem. On average, the shops charged BAR undercover agents almost \$300 in unnecessary brake rotor resurfacings, brake drum repairs, brake adjustments, brake cleaning services, and other services.

Due to concerns identified by trade organizations and the BAR Enforcement Division, BAR has deemed it necessary to establish minimum standards for ARDs that perform brake inspections and repairs.

UNDERLYING DATA:

Technical, theoretical or empirical studies or reports relied upon:

Bureau of Automotive Repair Consumer Affairs System Report “*Calendar Year 2010 Complaints Received – Detail.*”

BUSINESS IMPACT:

This regulation will not have any adverse economic impact on businesses. This initial determination is based on the following facts or evidence/documents/testimony:

The proposed regulation only sets minimum standards for automotive brake inspections and repairs. Most ARDs currently meet or exceed the proposed standard. Nothing prevents an ARD from improving their brake inspections and repair services to comply with this proposed regulation.

Additionally, this proposed regulation will not impose any new reporting, recordkeeping, or other compliance requirements.

ECONOMIC IMPACT ASSESSMENT:

BAR has made an initial determination that the proposed regulatory action will not have any impact on the creation of jobs or new businesses, the elimination of jobs or existing businesses, the expansion of businesses, worker safety, or the state’s environment.

This regulation may improve the health and welfare of California residents. Consumers that receive improper brake inspections and repairs may choose to file a complaint against the ARD with BAR. This action can be time consuming for consumers. This proposed action may help to reduce the number of complaints filed with BAR. Thus, this proposal may save consumers valuable time and money.

SPECIFIC TECHNOLOGIES OR EQUIPMENT:

This regulation does not mandate the use of specific technologies or equipment.

This regulation only sets minimum standards for brake inspections and repairs. Further, it does not require an ARD to purchase specific equipment or any new equipment.

CONSIDERATION OF ALTERNATIVES:

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be equally as effective and less burdensome to affected private persons than the proposed regulation.

Set forth below are the alternatives that were considered and the reasons each alternative was rejected:

Alternative 1: BAR considered taking no action. However, not developing minimum brake standards for the inspection of brake drums, rotors and pads could result in some ARDs deviating from industry best practices and potentially negatively impacting consumers and other ARDs. Further, BAR's mandate is to provide consumer protection and ensure a fair and competitive automotive repair marketplace.

Alternative 2: BAR considered setting standards that prescribed detailed tasks associated with a brake inspection and/or repair. BAR rejected this option because it was too restrictive. This option could not account for changing parts, vehicle designs, and new industry standards.